UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES of AMERICA	)	
v.	)	**Criminal No. 05-40037-FDS**
BOULA LONA SISOMPENG,	)	
Defendant.	)	

ORDER ON DEFENDANT'S
MOTION FOR REDUCTION OF SENTENCE

SAYLOR, J.

Defendant Boula Lona Sisompeng has moved for a sentence reduction on the grounds that the amendments to the sentencing guidelines that went into effect on November 1, 2010, should lower his sentence. Defendant previously moved for an adjustment on the grounds that he is a deportable alien and therefore ineligible for the residential drug abuse program, ineligible for a halfway house assignment, and likely to suffer unusually harsh collateral consequences. The Court denied that motion on May 17, 2010.

Defendant was sentenced on May 21, 2007. He seeks a sentence reduction because, on November 1, 2010, the Sentencing Commission, among other things, amended USSG § 2D1.1 to adjust the sentences for certain drug crimes. The November 2010 amendments, however, are not retroactively applicable to defendant's sentence. Section 3582(c)(2) of Title 18 states that a sentence can be adjusted in light of new Guideline amendments "if such a reduction is consistent with applicable policy statements issued by the Sentencing Commission." The applicable policy statement, § 1B1.10, states that "[a] reduction in the defendant's term of imprisonment is not consistent with this policy statement . . . and therefore is not authorized under 18 U.S.C.

§ 3582(c)(2) if . . . none of the amendments listed in subsection (c) is applicable to the defendant." *See* USSG § 1B1.10(2)(A). Subsection (c) of 1B1.10, titled, "Covered Amendments," does not list the relevant amendments.

In any event, defendant's sentence would not be reduced even if the amendments apply. His sentencing calculation was based on the distribution of MDMA. *See Plea Agreement* at 1-2. The offense level for the relevant drug weight was not changed in the November 2010 amendments. Under both the 2007 Guidelines and the most recently amended version, the drug weight for defendant's offense results in a base offense level of 36. *See also* USSG § 1B1.10(a)(2) (reduction in sentence is not consistent with Commission's policy statements if the relevant amendment "does not have the effect of lowering the defendant's applicable guideline range").

For the foregoing reasons, defendant's motion for to reduce his sentence is DENIED.

So Ordered.

/s/ F. Dennis Saylor
F. Dennis Saylor IV
United States District Judge

Dated: November 18, 2011